REMARKS/ARGUMENTS

Claims 13, 17, 20-25 and 27-35 are present in this application. By this Amendment, claim 27 has been amended, and claims 34 and 35 have been added. Reconsideration in view of the above amendments and the following remarks is respectfully requested.

Claims 13, 23, 25, 27, 28, 30 and 33 were rejected under 35 U.S.C. §103(a) over U.S. Patent No. 6,712,859 to Rousseau et al. in view of U.S. Published Patent Application No. 2002/0116070 to Amara et al. This rejection is respectfully traversed.

With reference to the drawings of the present application, the apices of the lobes formed by the outwardly projecting longitudinal ridges or bulges of claim 27 are joined by linear sides of the surgically compatible mesh material. The internal supports contacting the interiors of the outwardly projecting longitudinal ridges or bulges serve to maintain the generally triangular cross-sectional shape of the external mesh material wall. The Office Action refers to "flange portion 19" in Rousseau as meeting the claimed internal support webs that extend into contact with respective interiors of at least outermost portions of the outwardly projecting longitudinal ridges or bulges. The flange portion 19 in Rousseau, however, facilitates the relative alignment and attachment of the conical members 14a, 14b. Unlike the internal support of the claimed invention, the flange 19 does not in fact provide structural support for the outwardly projecting longitudinal ridges or bulges. Rather, the Rousseau prosthesis is required to be radially expandable, and the flange portion 19 expands with the conical members 14a, 14b. In the paragraph beginning at col. 3, line 29, Rousseau provides that:

> [t]he prostheses of the present invention comprise a hollow, radially-expandable member for placement within and occlusion of a fascia defect. By radially-expandable, it is meant that the cross sectional area of the member expands from an initial, non-expanded configuration having an initial cross sectional area, sized

> such that the member may be placed within a fascia defect in a stress-free condition, to a final, expanded configuration having a final cross sectional area greater than the initial cross sectional area and effective to occlude all of, or at least a substantial portion of, the fascia defect.

In other words, as shown in the sequence of Figs. 1-4 of Rousseau, and as described at col. 5, lines 17-29, upon insertion of the prosthesis into the defect 43:

> [f]ree end 23 of suture 22 is pulled while prosthesis 10 is held in a forward position, i.e., flush with anterior side 48 of fascia 42. The tightening of suture 22 causes the opposing conical members 14a, 14b to be drawn together. The compression of the conical members 14a, 14b causes them to collapse axially onto themselves, thus causing the diameter of conical members 14a, 14b [and the flange 19] to expand radially and pleats 16 to open up or expand into a relatively flattened position, i.e., with a greater major diameter and a lesser axial length. This same action causes tubular structure 28, located within cavity 30, to buckle collapse and expand radially outwardly. Knot 24 is pulled until it is fully tightened.

As such, this radial expansion is essential to the intended functionality of the Rousseau prosthesis. In Rousseau, the flange portion 19 and its nesting within the open pleated base 20 of the opposite conical member 14a does not maintain this shape of the external mesh material wall because it allows the pleat 16 "to open up or expand into a relatively flattened position" (col. 5, lines 24-25 and Fig. 4) on compression of the conical members 14a, 14b. The flange portion 19 similarly does not maintain the size of the external wall because tightening of the suture 22 causes the conical members 14a, 14b "to collapse axially onto themselves, thus causing the diameter of the conical members 14a, 14b to expand radially" (col. 5, lines 21-24).

In an effort to clarify this distinction, claim 27 has been amended to recite that the internal support is sufficiently rigid to maintain the size and shape of the external mesh material wall. Support for this subject matter can be found in the specification at, for example, page 4,

lines 2-4. See also page 2, lines 11-12, page 3, lines 1-3 and Figs. 1, 3 and 4. Rousseau in fact teaches away from the use of any such rigidity or support structures as radial expansion is necessary for its intended functionality. See col. 5, lines 38-47.

The Amara publication was cited merely for the proposition of a mesh plug being formed into different shapes. Without conceding this characterization of the Amara publication, Applicant notes that Amara does not correct the deficiencies noted with regard to Rousseau.

Applicant thus submits that claim 27 is distinguishable from the references of record and that the rejection should be withdrawn.

With regard to the dependent claims, Applicant submits that these claims are allowable at least by virtue of their dependency on an allowable independent claim.

Reconsideration and withdrawal of the rejection are respectfully requested.

Claims 34 and 35 have been added to define additional features of the invention. Claim 34 recites that the internal support comprises a pair of L-shaped supports positioned back to back and extending into the outwardly projecting longitudinal ridges or bulges. See p. 4, lines 17-19 and Fig. 4. Claim 35 recites that the external mesh material wall includes means for stiffening the prosthesis. See p. 4, lines 20-23. Applicant submits that these claims are allowable at least by virtue of their dependency on an allowable independent claim. Additionally, these features of the invention are also lacking in the references of record.

In view of the foregoing amendments and remarks, Applicant respectfully submits that the claims are patentable over the art of record and that the application is in condition for allowance. Should the Examiner believe that anything further is desirable in order to place the application in condition for allowance, the Examiner is invited to contact Applicant's undersigned attorney at the telephone number listed below.

Prompt passage to issuance is earnestly solicited.

The Commissioner is hereby authorized to charge any deficiency, or credit any overpayment, in the fee(s) filed, or asserted to be filed, or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to Deposit Account No. 14-1140.

Respectfully submitted,

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